

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

COBBLER NEVADA, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 15 C 8441
)	
DOES 1 - 23,)	
)	
Defendants.)	

MEMORANDUM ORDER

Cobbler Nevada, LLC ("Cobbler Nevada") has filed a Complaint for Copyright Infringement against defendants described as "Does 1 - 23," advancing claims based on defendants' asserted use of the now-familiar "BitTorrent protocol."¹ Although this memorandum order is coupled with this Court's issuance of its customary initial scheduling order, it is issued sua sponte to alert counsel for Cobbler Nevada to be prepared to speak to the issue of the number and identity of the targeted Doe defendants.

This Court was the beneficiary of a visit from the fabled Prince of Serendip when it first confronted the question of BitTorrent joinder -- through an astonishing coincidence it acquired a copy of a then-unpublished student law review note in the University of Michigan Law Review that provided valuable insight on a phenomenon that was then unknown to this Court. In that respect Cobbler Nevada's counsel are invited to conduct a Westlaw or Lexis search that should turn up a group of opinions by this Court reflecting the view that this Court has taken and still

¹ This action differs from the most frequently encountered cases of this type, in which the allegedly infringed copyright protects a pornographic film, so that issues other than the merits of the copyright claim as such often muddy the waters. Here Complaint ¶ 2 makes it plain that the infringed work, a motion picture entitled The Cobbler, is a conventional film with considerable star power.

maintains in determining which defendants qualify for joinder as a "swarm" in this type of action.

In this instance all of the putative Doe defendants show "hits" during a single day, April 23 of this year -- but those hits span fully 19 hours during that day (from 4:43 a.m. to 11:46 p.m.) (Complaint Ex. B). From this Court's viewpoint as explained in the earlier BitTorrent lawsuits referred to in the preceding paragraph, Cobbler Nevada's counsel need to provide some reasoned input to justify sweeping up that entire group as defendants in any single lawsuit. And that should be done quickly so that counsel may move forward with the customary discovery in this type of action.²



Milton I. Shadur
Senior United States District Judge

Date: September 28, 2015

² This Court will leave to counsel the timetable for providing that input, rather than this Court's selecting an arbitrary date.